

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MICHAEL COTA,

Petitioner,

v.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 3:21-cv-00399-MMD-CLB

ORDER

In this habeas corpus action, *pro se* Petitioner Michael Cota has not yet paid the filing fee, therefore his habeas petition has yet to be screened.

Cota's original application to proceed *in forma pauperis* (ECF No. 1) was incomplete, therefore the Court denied it without prejudice and gave Cota time to file a new complete application. (ECF No. 4.) On September 10, 2021, Cota filed a second application to proceed *in forma pauperis* (ECF No. 5). In light of the information provided in the second application, the Court finds Cota is able to pay the \$5.00 filing fee for this action. The Court therefore will deny the second application and give Cota time to pay the filing fee. To pay the filing fee, Cota must have \$5.00 sent to the Clerk of Court, with a cover letter indicating the case number of this action. If Cota fails to pay the filing fee within the time allowed, this action will be dismissed.

On September 10, 2021, Cota additionally filed a document entitled "Request for Clarification/Notice of Compliance" (ECF No. 5-2), which includes a motion requesting the Court reconsider its order (ECF No. 4) denying Cota's motion (ECF No. 3) under 28 U.S.C. § 2255. The Court will deny Cota's motion for reconsideration. 28 U.S.C. § 2255 provides for motions only by individuals in federal custody; Cota is in state custody.

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1 It is therefore ordered that Petitioner Michael Cota's second application to proceed  
2 *in forma pauperis* (ECF No. 5) is denied.

3 The Clerk of Court is directed to separately file Cota's "Request for Clarification/  
4 Notice of Compliance" (ECF No. 5-2). The motion for reconsideration within the Request  
5 for Clarification/Notice of Compliance (ECF No. 5-2) is denied.

6 It is further ordered that Cota will have 45 days from the date of this order to pay  
7 the \$5.00 filing fee for this action as instructed above.

8 DATED THIS 14<sup>th</sup> Day of September 2021.

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13 MIRANDA M. DU  
14 CHIEF UNITED STATES DISTRICT JUDGE  
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